

#2 Rec'd PCT/PTO 19 OCT 2005

Dkt. 2259/65532-A-PCT/JPW/AJM/MVM

IN THE UNITED STATES RECEIVING OFFICE (RO/US)

Applicant : Roger Williams Hospital

International Application No.: PCT/US03/12679

International Filing Date : April 23, 2003

For : COMPOSITIONS AND METHODS FOR STEM CELL DELIVERY

1185 Avenue of the Americas
New York, New York 10036
October 19, 2005

Attn: PCT Legal Staff
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED

20 DEC 2005

Legal Staff
International Division

Sir:

**PETITION FOR REVIVAL OF AN INTERNATIONAL
APPLICATION FOR PATENT DESIGNATING THE U.S.
ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. §1.137(b)**

This Petition is submitted to revive the above-identified application under 37 C.F.R. §1.137(b).

Requirements of Petition to Revive

A petition under 37 C.F.R. §1.137(b) must be accompanied by:

- (1) the required reply, unless it has been previously filed;
- (2) the petition fee set forth in 37 C.F.R. §1.17(m);
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until

Applicant : Roger Williams Hospital
Intl Appln No. : PCT/US03/12679
Intl Filing Date: April 23, 2003
Page 2

the filing of a grantable petition pursuant to this paragraph was unintentional; and

(4) any terminal disclaimer (and fee set forth in §120(d)) required pursuant to 37 C.F.R. §1.137(c) for a utility application filed before June 8, 1995.

Statement of Facts

The thirty (30) month deadline for entering the national stage in the United States Patent and Trademark Office for PCT International Application No. PCT/US03/12679 (subject application) was October 23, 2004. Kimberly O'Connell, Esq., Vice President and General Counsel of applicant Roger Williams Hospital (Roger Williams), was advised of the October 23, 2004 deadline by John P. White, Esq. of Cooper & Dunham LLP, patent counsel for Roger Williams, as late as October 7, 2004. However, through oversight, Ms. O'Connell did not instruct Cooper & Dunham LLP to enter the national stage in the United States by that deadline.

Prior to October 5, 2005, Ms. O'Connell communicated on several occasions with Alan J. Morrison, Esq., the undersigned attorney, regarding, among other things, applicant's continued interest in entering the national stage in the United States for the subject application and whether doing so would be possible. On October 5, 2005, Ms. O'Connell first informed Mr. Morrison that her not instructing Cooper & Dunham LLP to enter the national stage in the United States was due to her own oversight and was thus unintentional.

Applicant : Roger Williams Hospital
Intl Appln No. : PCT/US03/12679
Intl Filing Date: April 23, 2003
Page 3

Required Reply Under 37 C.F.R. §1.137(b) (1)

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. §371(c) were not filed prior to the expiration of the time set in 37 C.F.R. 1.495(b).

Pursuant to 35 U.S.C. §371(c) :

"The applicant shall file in the Patent and Trademark Office -

- (1) the national fee provided in section 41(a) of this title;
- (2) a copy of the international application, unless not required under subsection (a) of this section or already communicated by the International Bureau, and a translation into the English language of the international application, if it was filed in another language;
- (3) amendments, if any, to the claims in the international application, made under article 19 of the treaty, unless such amendments have been communicated to the Patent and Trademark Office by the International Bureau, and a translation into the English language if such amendments were made in another language;

Applicant : Roger Williams Hospital
Intl Appln No. : PCT/US03/12679
Intl Filing Date: April 23, 2003
Page 4

- (4) an oath or declaration of the inventor (or other person authorized under chapter 11 of this title) complying with the requirements of section 115 of this title and with regulations prescribed for oaths or declarations of applicants; and
- (5) a translation into the English language of any annexes to the international preliminary examination report, if such annexes were made in another language."

Applicants attach hereto as **Exhibit 1** the necessary papers and the fee for filing a national stage application pursuant to 35 U.S.C. §371, i.e. specification (41 pages), claims (12 pages), Preliminary Amendment including a new Abstract of the Disclosure (Exhibit A), Declaration and Power of Attorney (unsigned), Transmittal Letter (in duplicate), a check in the amount of \$800.00, and an Express Mail Certificate of Mailing bearing Label No. EV 553 659 986 US dated October 19, 2005. Accordingly, the required reply is being submitted.

Petition Fee Required Under 37 C.F.R. §1.137(b) (2)

The required fee for filing a Petition under 37 C.F.R. §1.137(b) as set forth in 37 C.F.R. §1.17(m) is \$750.00 for a small entity and applicants enclose a check for this amount.

Statement Under 37 C.F.R. §1.137(b) (3)

The entire delay in filing the required reply, i.e. the attached application for entering the national stage in the United States

Applicant : Roger Williams Hospital
Intl Appln No. : PCT/US03/12679
Intl Filing Date: April 23, 2003
Page 5

under 35 U.S.C. §371, from the due date for filing the application until the filing of this petition pursuant to 37 C.F.R. §1.137(b), was unintentional.

Terminal Disclaimer Under 37 C.F.R. §1.137(b) (4)

Because the subject application was filed on April 23, 2003, which is after June 8, 1995, 37 C.F.R. §1.137(c) does not require any terminal disclaimer to be filed.

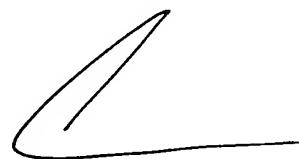
In view of the foregoing, applicants earnestly solicit an expeditious revival of the subject application.

If a telephone interview would be of assistance in resolving any issue in connection with this petition, applicants' undersigned attorneys invite the Examiner to telephone them at the number provided below.

Applicant : Roger Williams Hospital
Intl Appln No. : PCT/US03/12679
Intl Filing Date: April 23, 2003
Page 6

No fee, other than the enclosed \$750.00 petition fee as set forth in 37 C.F.R. §1.17(m) and the enclosed \$800.00 filing fee as set forth in 37 C.F.R. §1.492, is deemed necessary in connection with the filing of this petition. If any additional fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account No. 03-3125.

Respectfully submitted,



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